In the High Court of Punjab and Haryana at Chandigarh

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C.R. No.547 of 2007

Date of decision: 17.9.2007

Sukhdev Singh ... Appellant

Versus

Gram Panchayat Kalake through its Sarpanch
Gurnam Kaur .Respondent

Coram: **Hon'ble Mr.Justice Rajesh Bindal**

Present: Mr.S.K.Singla,Advocate
for the petitioner.

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RAJESH BINDAL,J.

Challenge in the present revision is to the order passed by the Civil Judge(Junior Division), Barnala dismissing the application filed under Order 21 Rule 32 of C.P.C. filed by the petitioner-plaintiff.

Briefly the facts are that the petitioner approached the Civil Court by filing a suit for permanent injunction claiming that he was in possession of land measuring 84 kanals 15 marlas situated in village Kaleke. His possession was as a gair marusi. on Chakota; Claim made was that the chakota is being paid regularly and there is no violation of any terms and conditions thereof. The claim was disputed by the respondent- Gram Pancyhayat. On evidence led by the parties, it was found that the petitioner could produce only two receipts marked 'A' and 'B' (which also were not exhibited) showing that the chakota was paid only for the year 1984-85 and 1992-93. No other receipt showing payment for any period before or after was produced. The suit was filed on 3.9.1998. Accordingly, the claim made by the petitioner did not find favour with the trial Court. However, it was ordered that as the petitioner is found to be in possession of the property, he should be evicted in due course of law. Thereafter, as is noticed by the learned executing court in the impugned order, dismissing application under Order 21 Rule 32 CPC filed by the petitioner that after passing of the decree in favour of the petitioner on 22.2.2001, the petitioner participated

in the auction proceedings of the land and paid a sum of Rs.1250/- as chakota for the year 2002-03 and Rs.1400/- for 2003-04.The petitioner denied the fact that there was any auction proceedings. He is silent on the issue as to on what basis the amount was paid by him for these two years as the petitioner had already stopped paying chakota to the respondent-Gram Panchayat after 1992-93, when he had paid Rs.425/- only.

From the fact on record, it is clearly evident that the petitioner is out to grab the land and does not want to part with the possession thereof. Even though, he is not in the lawful possession thereof after the year 1992-93, after the expiry of the chakota in his favour .At the time of filing of the suit, his claim that there is no violation of any terms or that he had paid the entire chakota was also not found to be correct. After decree of the suit in his favour for two years, namely, 2002-03 and 2003-04, the petitioner paid a sum of Rs.1250/- and Rs.1400/- respectively as chakota which according to the respondent-Gram Pancyayt was on account of auction proceedings having been held by them in which the petitioner was successful, however, this fact was denied by him. However, the Gram Panchayat had produced and confronted to the petitioner the lease register on which the petitioner denied his signatures. The conduct of the petitioner to grab the land in dispute is further evident from his cross-examination when he admitted that he had filed two other cases regarding the land in dispute. As per the respondents, the prayer for interim relief was rejected in those cases but the same was denied by the petitioner. However, still the fact remains that the petitioner, who took the land on chakota way back in the year 1992-93 for one year, is some how or the other remained in possession thereof, which cannot be said to be in furtherance of any due course of law. Term due course of law is not to be interpreted in the manner that defeats the ends of justice.

Accordingly, I do not find any merit in the present petition and the same is dismissed in limine.

September 17,2007 (Rajesh Bindal)
nk Judge